

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.7754 OF 2005

Navnath Ramesh Katware .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.S.V.Marwadi for applicant
Mr.R.Y.Mirza, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 5th December 2005.

P.C.

. Heard Mr.Marwadi for applicant and
Mr.Mirza, A.P.P. for State. Applicant is
original accused in C.R.No.105 of 2005 registered

at Igatpuri Police station, Nashik. Offences alleged are under section 302 and 504 of I.P.C. It is the case of prosecution that applicant is residing in neighbouring premises of one Manglu Megal (deceased). Deceased was a gangman with Central railway. On the date of incident i.e. 9th September 2005 during day time, the said Manglu and his father in law were sitting and chatting in open space near the quarters. There was some discussion between father in law of Manglu and Manglu at which, it is alleged that, made some general comments and abusive remark about Katware family. Applicant, who was in the vicinity and upon hearing the same, had a heated exchange and altercation with Manglu and thereafter, the applicant picked up a stone and hit the same on Manglu's head. Thereafter, deceased fell down and applicant ran away from the scene. Complainant as well as her father, her step daughter and her nephew have witnessed this incident.

2. The incident took place on 9th September 2005. Applicant was arrested on 10th September 2005. He was remanded to custody till 15th September 2005. Presently, applicant is in judicial custody. It is not disputed that application for bail before charge sheet was filed and thereafter, has been rejected. Sessions Court was of the view that the incident may have occurred because of heated exchange and the comments of the deceased about Katwari community but the applicant after picking up stone and hurling it as well as hitting it has caused injuries and deceased died because of the act of applicant and none else. This is a case where section 302 is attracted. Learned Sessions Judge was also influenced to a great extent by the fact that the applicant is residing in neighbourhood of complainant and if released would pressurise the witnesses. It is pointed out that statements of other witnesses are yet

to be recorded. In these circumstances, applicant was held not entitled to be enlarged on bail.

3. Mr.Marwadi, learned Counsel appearing for applicant points out that applicant is aged 18 years and presently studying in N.D.M.V.P.Samaj's College of Arts, Science and Commerce, Igatpuri. He is pursuing a degree course in commerce and presently in first year. The incident occurred at the spur of moment. Applicant upon over-hearing the conversation and critical remarks not only against family of wife of deceased but against the community as a whole, got angry and that was the reason for the incident. Applicant has no criminal antecedent. He has been pursuing his studies and would abide by all conditions including not entering Igatpuri city, save and except for the purpose of reporting to police station. Applicant will not also reside in the neighbourhood of complainant but would shift his

residence. Mr.Marwadi upon taking instructions from father of applicant who is present in court states that the applicant would reside with his Aunt at village Dhargaon Vaitarna Taluka Igatpuri Dist.Nashik, which is located at a distance of about 20-25 kms. from complainant's village. He will also report to Igatpuri police station every Sunday till the trial is concluded.

4. Upon this statement being made, I enquired from Mr.Mirza, A.P.P. who after taking instructions from the Constable attached to concerned police station present in court confirms the distance between the villages.

5. In my view, considering the averments in the application and the undertaking now given, it would be in the interest of justice to enlarge the applicant on bail. In a sudden fit of anger and at the spur of moment applicant has committed the offence. Although, it is a serious offence

and the punishment for which is provided in law, considering the fact that the applicant has no criminal antecedents and he on his own has agreed to abide by conditions as aforesaid, he deserves to be enlarged on bail. The conditions would be as under:-

i) Applicant is enlarged on bail in connection with C.R.No.105 of 2005 registered with Igatpuri police station in the sum of Rs.3500/- with one surety in the like amount.

ii) Applicant shall not enter Village Jambulwadi, Taluka Igatpuri, Dist.Nashik as also limits of Igatpuri city, save and except reporting at Igatpuri Police Station on every Sunday between 3.00 p.m. and 5.00 p.m.

iii) Applicant shall report to

Igatpuri Police station on every Sunday between 3.00 p.m. and 5.00 p.m. till the conclusion of trial.

iv) Applicant shall, as undertaken, reside at the place of his Aunt Asha Sanjay Pujare at Village Dhargaon Vaitarna, Taluka Igatpuri, Dist.Nashik and he will not leave limits of the said village till the trial is concluded without permission of the trial court. This condition would not prevent applicant from attending his college and examinations.

v) Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) It is made clear that any violation or breach of the conditions which are imposed as per the undertaking of applicant himself shall entail in cancellation of bail.

viii) Application is disposed of.

ix) Parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)